

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

MICHAEL ROWE,)	Civ. 11-4165-KES
)	
Plaintiff,)	
)	
vs.)	ORDER GRANTING LEAVE TO
)	PROCEED IN FORMA PAUPERIS
DIRTY JOBS MIKE ROWE, as seen as)	AND DISMISSING CASE
on Discovery Network,)	
)	
Defendant.)	

Plaintiff, Michael Rowe, filed a pro se complaint in which he alleges that Mike Rowe, of the Discovery Channel's *Dirty Jobs* television program, infringed upon the copyright he filed to protect his name. Docket 1. At the time plaintiff filed this lawsuit, he was incarcerated at Mike Durfee State Prison in Springfield, South Dakota. Plaintiff has since been released and resides in Sioux Falls, South Dakota. Plaintiff moves for leave to proceed in forma pauperis in his lawsuit against defendant.

This court may authorize the commencement of suit without prepayment of fees when an applicant files an affidavit stating he is unable to pay the costs of the lawsuit. 28 U.S.C. § 1915. Determining whether an applicant is sufficiently impoverished to qualify to proceed in forma pauperis under § 1915 is committed to the court's discretion. *Cross v. Gen. Motors Corp.*, 721 F.2d 1152, 1157 (8th Cir. 1983). "In forma pauperis status does not require a litigant to demonstrate absolute destitution." *Lee v. McDonald's Corp.*, 231 F.3d 456, 459 (8th Cir. 2000). Based upon his affidavit, Rowe's sole income is disability payments from the Department of

Veterans' Affairs. Thus, he has made the requisite financial showing to qualify for in forma pauperis status.

But the inquiry does not end there. Under § 1915, the court must review the claims in the complaint to determine if they are "(i) frivolous or malicious; (ii) fail to state a claim on which relief may be granted; or (iii) seek monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(b). The plaintiff in a copyright infringement claim has the burden to prove ownership of a valid copyright. *Taylor Corp. v. Four Seasons Greetings, LLC*, 403 F.3d 958, 962 (8th Cir.2005). Plaintiff has provided a document he terms a "Copyright Notice and Self-Executing Agreement," in which he purports to copyright his own name. Docket 1-1. But "[c]opyright does not protect names, titles, slogans, or short phrases." United States Copyright Office, *What Does Copyright Protect?*, available at <http://www.copyright.gov/help/faq/faq-protect.html> (accessed March 8, 2012). Thus, plaintiff has failed to state a claim upon which relief may be granted and his complaint is dismissed. Therefore, it is

ORDERED that plaintiff's motion for leave to proceed in forma pauperis (Docket 7) is granted.

IT IS FURTHER ORDERED that plaintiff's complaint is dismissed without prejudice pursuant to 28 U.S.C. § 1915.

Dated March 15, 2012.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
CHIEF JUDGE